

# **Landscape Establishment Bond Procedure**

## **PROCEDURES FOR LANDSCAPE ESTABLISHMENT BOND AUGUSTA, GEORGIA**

### **PREFACE:**

The Tree Ordinance of Augusta, GA, Chapter 8-4, as amended, allows the provision of a Landscape Establishment Bond in connection with commercial development within Augusta, GA.

The Surety provided in connection with such Landscape Establishment Bond shall be a Corporate Surety licensed to do business in the State of Georgia. In lieu thereof, the Developer may post a Cash Bond or a Letter of Credit from a federally insured lender.

Details of the various requirements for the Landscape Establishment Bond are found in the following section of the Tree Ordinance: Chapter 8-4-13.

### **CALCULATION OF BONDS:**

Prior to the issuance of a Certificate of Occupancy, the Developer will confer with the appropriate Planning Commission Staff (PCS) or the appropriate Trees and Landscape Staff (TLS) who in turn will provide the Developer with the acceptable format for both the Landscape Establishment Bond and the Letter of Credit. The Developer will provide the TLS with a copy of the amount of the contract award for landscaping. The TLS will determine the improvements to be covered by the Landscape Establishment Bond and will provide a calculation for such improvements. The TLS will compare the two calculations and notify the Developer of the higher calculation, and therefore, the amount of the Landscape Establishment Bond.

The PCS will be notified by the TLS regarding the amount, and the expiration date, of the Landscape Establishment Bond.

Landscape Establishment Bonds shall include, but not be limited to, the following:

- a. All required landscaping as delineated on the approved Site Plan, including installation costs.
- b. All required irrigation as delineated on the approved Site Plan, including installation costs.
- c. Legal costs associated with the provision of required Landscape Establishment Bond.

### **SUBMISSION AND ACCEPTANCE OF BONDS:**

The Developer will submit the Landscape Establishment Bond and Surety to the PCS.

The PCS will submit the Landscape Establishment Bond to the City Attorney (CA) who will review the Bond for form and content and provide written approval of same.

If cash is provided for the Surety, the PCS will deposit the cash with the City Comptroller. The City Comptroller will hold the cash in an escrow account in the name of the Developer. The PCS will obtain a receipt for the cash from the City Comptroller, forward the receipt to the Developer and maintain a copy of the receipt in the Landscape Establishment Bond file. Any interest accrued by investment of said cash funds shall be returned to the Developer, whenever the cash surety is returned to the Developer. In the event that the Landscape Establishment Bond is declared to be in default, any interest shall first be applied for any required improvements.

- a. The PCS will notify the TLS of the expiration date of the Landscape Establishment Bond and the deadlines for monitoring actions of the Bond. Both the PCS and the TLS will maintain a separate card system ("tickler" file) for monitoring the Bond expiration date and the deadlines for inspections and notification. Inspections and notifications will be as follows:
- b. Six (6) months prior to the expiration of the Landscape Establishment Bond, the PCS will notify the TLS, in writing, to inspect the required landscaping at the subject site. The TLS will inspect the subject site and report to the PCS, in writing, within thirty (30) days.
- c. The PCS will notify the Developer, in writing, of any deficiencies or defects in the required landscaping at the subject site.
- d. The Developer will have sixty (60) days to address any deficiencies or defects in the required landscaping at the subject site.
- e. Two (2) months prior to the expiration of the Landscape Establishment Bond, the PCS will notify the TLS, in writing, to perform a second and final inspection, as needed. Within thirty (30) days of notification by the PCS, the TLS will inspect the subject site and report to the PCS, in writing, to release, extend, or call the Landscape Establishment Bond.

## **EXTENSION, CALLING OR RELEASE OF BONDS:**

If the required landscaping is satisfactory, the PCS will release the Landscape Establishment Bond on the expiration date.

If the required landscaping improvements are not satisfactory and the TLS has recommended calling the Landscape Establishment Bond, the PCS will, no later than 30 days prior to expiration of the Landscape Establishment Bond, notify the Surety Agent and the Developer, in writing, both by "Certified Mail, Return Receipt Requested, Addressee Only". Said notification shall state that the Developer has failed to make the required improvements within the term of the Landscape Establishment Bond and that the Bond is therefore declared to be in default.

If the Landscape Establishment Bond is called, the PCS will deposit the proceeds from the Landscape Establishment Bond with the City Comptroller, with a copy of the transmittal memo to the City Comptroller, who will establish an account for the use of said proceeds to complete the required

landscaping improvements or make good any defects in the required landscaping. The Director of the Trees and Landscape Department is authorized to draw on said account.

The proceeds of the Landscape Establishment Bond are then used by the Director of Trees and Landscape, following standard City purchasing procedures to complete the required landscaping improvements, or to make good any defects in the required landscaping improvements. Any funds remaining from the Landscape Establishment Bond after such improvements are completed or such defects are corrected shall be returned to the Surety Agent or to the Developer, as applicable, after approval by the Director of Trees and Landscape and the Director of the Augusta-Richmond County Planning Commission.

**GENERAL:**

The above procedures are subject to change, according to the requirements of law or specific Surety instruments.

Any desired extensions of the Landscape Establishment Bond must be approved by the CA prior to the expiration of the original Landscape Establishment Bond.

Nothing in these procedures for the Landscape Establishment Bond shall be construed as conveying any procedural rights to a Developer of any notice requirements. This includes by way of example, but not limitation, the "tickler" system and the notification requirements of deficiencies to the Developer. Failure of the City or its agents to follow those procedures shall not stop the City from declaring the Landscape Establishment Bond in default.